REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application and for indicating that the drawings filed on November 14, 2003, are accepted.

Disposition of Claims

Claims 1-23 are pending in this application. Claims 1, 10, and 17 are independent. The remaining claims depend, either directly or indirectly, from claims 1, 10, and 17.

Claim Amendments

Independent claims 1, 10, and 17 are amended to clarify aspects of the invention. Further, claims 2, 3, and 11 are amended to correct typographical errors and/or for consistency with amended independent claims 1 and 10. No new matter has been introduced by way of these amendments as support for these amendments may be found, for example, in paragraphs [0019], [0025], [0026], [0044], and [0046] of the instant specification.

Rejection(s) under 35 U.S.C. § 101

Claims 10-16 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. More specifically, the Examiner rejected claims 10-16 as reciting elements that fail to tangibly embody the system and, thus, are computer software per se. To the extent the rejection may apply to amended and original claims 10-16, the rejection is traversed.

Claim 10, as amended, recites, in part, "a processor configured to" and "a memory configured to." The recited system comprising a processor and a memory is clearly not a program or software per se.

For at least this reason, claim 10 complies with the statutory subject matter requirement of 35 U.S.C. §101. Claims 11-16 depend either directly or indirectly from claim 10 and, thus, comply with the statutory subject matter requirement of 35 U.S.C. §101 for at least the same reasons as claim 10. Accordingly, withdrawal of this rejection is requested.

Rejections under 35 U.S.C. § 102

Claims 1-23 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,481,008 ("Chaiken"). To the extent that this rejection may still apply to the amended and original claims, the rejection is respectfully traversed.

The present invention is directed to a method of translating data. More specifically, the data of an *implementation data structure* from the instrumented program may be translated to an *interface data structure* during the *execution* of the instrumented program. Typically, the interface data structure may be configured to satisfy an instrumentation request from a user-level program. *See* instant specification, paragraph [0044]. More specifically, the interface data structure may be used to provide translated data to the user-level program such that the implementation data structure is *abstracted* from the user-level program. *See* instant specification, paragraph [0023]. The user-level program is then able to trace or debug the executing instrumented program without direct knowledge of the implementation data structure. *See* instant specification, paragraph [0048].

Turning to the rejection, "[a] claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) (emphasis added). Further, "[t]he identical invention must be shown in as complete detail as is contained in the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The Applicant respectfully asserts that Chaiken does not expressly or inherently describe each and every element of independent claim 1.

Amended independent claim 1 is directed to a method of translating data. More specifically, amended independent claim 1 recites, in part, "obtaining a value of an implementation data structure from an instrumented program, wherein the implementation data structure is *internal* to the instrumented program" and "applying at least one of the plurality of transformations to convert a representation of the implementation data structure into an interface data structure, wherein the interface data structure corresponds to an interface *offered* by the instrumented program". In contrast, Chaiken only discloses that *instructions* in an intermediate representation (IR) of an executable may be translated into platform specific instructions. *See* Chaiken, column 3 at lines 32-63. In other words, the system of Chaiken may translate the IR to generate a modified version of the executable. *See* Chaiken, column 8 at lines 29-37. However, Chaiken fails to disclose that an *internal* implementation *data structure* may be converted into an interface *data structure* that corresponds to an interface *offered* by the instrumented program. In other words, the platform specific instructions of Chaiken do not correspond to an interface, or anything similar, offered by the executable. In view of this, it is clear that translating *instructions* to generate a *modified executable* as recited in Chaiken is not equivalent to converting an internal implementation *data*

structure to an interface *data structure* that corresponds to an interface *offered* by the instrumented program as explicitly recited in amended independent claim 1.

Moreover, Chaiken fails to disclose using translated data to satisfy a user-level instrumentation request as specified in amended independent claim 1. More specifically, amended independent claim 1 recites, in part, that "the translated data is configured to satisfy an instrumentation request from a user." As discussed above, an instrumentation request may correspond to a request from a debugging program or a request from a tracing program. *See* instant specification, paragraph [0048]. In contrast, Chaiken only teaches that instructions may be translated to *generate a modified executable*. *See* Chaiken, column 8 at lines 29-37. More specifically, Chaiken teaches that "*instrumentation* and/or *optimizations*" may be performed "across what were previously incompatible boundaries." *See* Chaiken, column 14 at lines 36-41. However, Chaiken fails to teach generating data to satisfy an *instrumentation request* (*i.e.*, request from a debugging program or request from a tracing program). In view of this, it is clear that generating a modified program for incompatible systems as recited in Chaiken is not equivalent to translating data to satisfy an instrumentation request as recited in independent claim 1.

In view of the above, Chaiken fails to disclose all the limitations of amended independent claim 1. Thus, claim 1 is patentable over Chaiken. In addition, independent claims 10 and 17 include at least the same patentable subject matter as claim 1 and, thus, are patentable over Chaiken for at least the same reasons as claim 1. Dependent claims 2-9, 11-16, and 18-23 are patentable for at least the same reasons as the aforementioned amended independent claims. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 03226/343001).

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